

Bugs and Taps

A number of ugly facts have now been established regarding the Federal Bureau of Investigation:

1. FBI agents, by their own admission in a Federal District Court in Denver, violated the laws of the State of Nevada by installing concealed microphones—"bugs"—in the private premises of suspected gamblers. The Governor of Nevada has publicly demanded that they be prosecuted, and the Las Vegas district attorney has said that he will prosecute.

2. In a statement to the Supreme Court, the Solicitor General of the United States recently acknowledged that the FBI had installed a "bug" in the hotel room of a man convicted of tax evasion—Fred B. Black—and had monitored his private conversations, including conversations with his lawyer. The Supreme Court has asked for a fuller explanation.

3. By repeated acknowledgment of the Attorney General and by his own admission, FBI Director J. Edgar Hoover has long tapped telephones, and is continuing to tap telephones in cases involving what he believes to be threats to the national security. In every instance when he does this, whether the national security is involved or not, he is guilty of violating an Act of Congress if the content or meaning of the tapped conversation is disclosed to any person in or out of the FBI.

It has now become clear, in short, that the most prestigious law-enforcement agency in the country has systematically engaged in lawbreaking. And it has become equally clear that privacy of communication by telephone—or even, it may be, by direct conversation in the sanctuary of one's home or office—is a mirage in America.

When the KGB taps a telephone or bugs a bedroom in Moscow, it presumably has authorization to do so from the dictator currently in control; and that is all the authorization needed there. The American system is supposed to operate differently, however: it is a government of laws. An Attorney General has no lawful power to authorize his subordinates to violate an Act of Congress or to violate a law enacted by the Legislature of Nevada. The President of the United States himself has no lawful power to authorize such violations of law—on

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the pretext of protecting national security or on any other pretext whatsoever.

It is now pretty plain that FBI eavesdropping has not been confined to national security situations, despite the protestations of that agency's director and of the Attorney General. A recent series of articles in this newspaper by staff writer Richard Harwood, together with his reports of the past few days of the disclosures in the Federal District Court at Denver, uncover a shocking record of deliberate, cynical, dangerous lawbreaking. This kind of lawbreaking shatters the respect for privacy which, more almost than any other single factor, distinguishes a free society from a police state.

Moreover, this kind of lawbreaking brings the law itself into disrepute. Justice Brandeis wrote prophetically of this long ago:

Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to be a law unto himself; it invites anarchy. To declare that in the administration of the criminal law, the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution.

It is time to get to the root of this lawbreaking in the Department of Justice—to fix responsibility for it and to extirpate it from American life.